

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION NO. 1459 OF 1999

with

CIVIL REVISION APPLICATION NO. 1460 OF 1999

with

CIVIL REVISION APPLICATION NO. 1465 OF 1999

with

CIVIL REVISION APPLICATION NO. 1467 OF 1999

with

CIVIL REVISION APPLICATION NO. 1469 OF 1999

with

CIVIL REVISION APPLICATION NO. 1470 OF 1999

with

CIVIL REVISION APPLICATION NO. 1471 OF 1999

with

CIVIL REVISION APPLICATION NO. 1472 OF 1999

For Approval & Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether reporters of local papers may be allowed to see the judgment ?
2. To be referred to the reporters or not ?
3. Whether their lordships wish to see the fair copy

of the judgment ?

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950, or any order made thereunder ?

5. Whether it is to be circulated to the Civil Judge?

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Mohandas Kalidas Modi  
VERSUS  
Anilbhai Pransukhlal Vayla  
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Appearance:

Mr.R.R.Marshall for petitioners  
Mr.A.S.Vaikil for respondent  
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Coram: MR.JUSTICE S.K. Keshote,J  
Date of decision:30/12/1999

C.A.V. JUDGMENT

#. As all these matters proceed on the same facts and the parties are also common the same are being taken up for hearing together and are being disposed of by this common order.

#. As in these matters, order has to be passed with the consent of the learned counsel for the parties, it is not necessary to give out detailed facts of the case also, but briefly, the facts are being taken which are necessary for disposal of these matters as per agreement of the counsel for the parties, which are as under:

These revision applications have been filed by the original defendants in summary suits filed by plaintiff-respondent. In those suits, leave to defend the suits has been granted to the defendants-petitioners on the condition of depositing 25% amount of the suit within one month. This order is under challenge in all these civil revision applications.

#. The civil revision applications were admitted by this court on 6.10.99. The order of this court of this date reads as under:

Rule returnable on 29th October, 1999. Notice as to interim relief returnable on 29th October, 1999. By way of ad-interim relief prayer in terms

of para 3(b) is granted on condition that the applicants to deposit 10% amount of the suit amount before the lower court within a period of two weeks hereof.

D.S. permitted.

#. As per the order of this court aforesaid, 10% of the the suit amount was to be deposited by defendants-petitioners in the court below.

#. The learned counsel for the petitioners submits that more than Rs.7 lacs have already been deposited.

#. It is case of learned counsel for the plaintiff-respondent that 10% of the suit amount has not been deposited.

#. However the learned counsel for the petitioners states that over and above the amount deposited in the trial court by the defendants-petitioners in pursuance of the order of this court aforesaid, the petitioners shall deposit a further mount of Rs.2,08,000/= in monthly instalment of Rs.35,000/= beginning from first week of January, 2000. The learned counsel for the petitioners states that the order of the learned trial court accordingly be modified and leave to defend the suit may be granted subject to deposit of this amount.

#. The learned counsel for the petitioners further has no objection in case the plaintiff-respondent is permitted to withdraw whatever amount deposited by now by the petitioners and to be deposited in instalment in future.

#. The learned counsel for the plaintiff-respondent is in agreement that the order of the learned trial court may be modified accordingly and leave to defend the suit may be granted subject to deposit of 10% of the suit amount. He is further in agreement that 10% of the suit amount may be taken to be the amount which has already been deposited by petitioners plus the amount of Rs.2,08,000/= which is to be deposited in monthly instalment of Rs.35,000/= He submits that this amount already deposited by petitioners and further undertaken to be deposited by petitioners in monthly installments be permitted to be withdrawn by plaintiff-respondent. Lastly, it is contended that this court may give directions to the learned trial court to dispose of the suits expeditiously.

##. The learned counsel for the defendants-petitioners

though has no objection in case the amount which has been deposited by petitioners in the court and to be deposited in monthly installments is permitted to be withdrawn by the plaintiff-respondent, but he objected that this court may not give any priority in hearing to the suits which are of the year 1999.

##. In view of the aforesaid agreement between the learned counsel for the parties, now the only question remains to be decided is whether the court below should be given directions to dispose of the suit expeditiously or not. The suits are of the year 1999 and in case such a direction is given, the old matters cannot be disposed of. The old matters are to be given priority in hearing and more so the matter which are seven years' old and in that also, priority has to be given to the matters of senior citizens. If the suits of the year 1999 are ordered to be disposed of in priority, then those old matters of the category aforesaid will suffer and which needs to be given priority will not be given priority. Otherwise also, merely because leave to defend the suit has been granted only on deposit of 10% of the suit amount, it is not correct on the part of respondent to pray for early disposal of the suits. Those litigants who come earlier in court can legitimately claim for early disposal of their cases. In case priority is given to the new suits, certainly it may amount to discrimination. Every litigant has legitimate expectation of speedy disposal of his case and if the matters are taken up in seriatim, there may not be any grievance but if new matters are given priority merely because affluent litigants can approach to this court then certainly it will give heard burning and pain to those class of litigants. Prayer made by learned counsel for plaintiff-respondent for direction to the learned trial court to dispose of the suits does not deserve any acceptance and it is declined.

##. As a result of aforesaid agreement between the learned counsel for the parties the order of the learned trial court is modified to the extent that instead of 25% of the suit amount, it may be read as 10% of the suit amount and further whatever amount already deposited and the amount to be deposited in instalment may be taken to be 10% of the suit amount for the purpose of these suits. The plaintiff-respondent is entitled to withdraw the amount which has already been deposited and to be deposited by petitioners in installments. The defendants-petitioners are permitted to deposit Rs.2,08,000/= in monthly instalment of Rs.35,000/=, the first instalment commencing from January, 2000. In case

default is made in deposit of the aforesaid amount of two consecutive installments, liberty is granted to the plaintiff-respondent to apply for revival of these civil revision applications. Instalment has to be paid on or before 7th day of the month concerned. All these civil revision applications and Rule therein stand disposed of accordingly with no order as to costs.

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[sunil]